

# Notice of Allowability

## Application No.

09/763,607

## Examiner

CHRISTOPHER M. GROSS

## Applicant(s)

STAHLER ET AL.

## Art Unit

1639

### - The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 28 December 2009.
2. ☒ The allowed claim(s) is/are 2-11, 18, 21, 27, 37-41, 44-50, 57 and 58.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

### THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 6/30/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 1/15/2010
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

/ Christopher S. F. Low /  
Supervisory Patent Examiner, Art Unit 1639

## **DETAILED ACTION**

### ***Status of the Application***

Receipt is acknowledged of a responsive supplemental amendment, which was dated on 28 December 2009.

### ***Status of the Claims***

Claims 1-11,13-18,21-23,27-52, 56-57 were pending. Applicants canceled claims 1,13-17,22-23, 28-36, 42-43,51-56. In addition, Applicants amended claim 58. Therefore, claims 2-11,18,21,27,37-41,44-50,57-58 are currently pending and examined on the merits.

Please note that all previous species elections are hereby withdrawn in view of the fact that that the art search was extended to all species and no prior art was found that anticipates or renders obvious the instant claims in accordance with MPEP § 803.02. In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no

longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### ***Specification***

The specification is objected to in accordance with 37 CFR 1.77(c) which requires section headings as follows:

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Please add the following as the first paragraph of the specification:

This application is a 371 of PCT/EP99/06316.

Authorization for this examiner's amendment was given in a telephone interview with Martha Cassidy on 1/15/2010 (see attached interview summary).

Please amend claim 58b as follows:

(b) positioning a transparent biochip carrier, wherein said carrier has a surface that comprises photoactivatable cleavable protective groups located thereon ~~in~~ for photochemical synthesis at predetermined areas of said biochip carrier surface, between said illumination matrix and said detection matrix and in the light path of said illumination matrix such that light from the illumination matrix illuminates and is transmitted through said biochip carrier and to said detection matrix;

Please amend claims 27 and 41 as follows:

27. (Currently Amended) The method of claim 58,

(a) wherein said biochip carrier has a surface which comprises the photoactivatable cleavable protective groups located ~~at~~ on predetermined areas of said biochip carrier surface and wherein said programmable illumination matrix is a UV light source array comprising a plurality of individually controllable light sources; and

(b) wherein said specific two-dimensional light exposure pattern activates said photoactivatable cleavable protective groups ~~on~~ at said selected predetermined area areas of said biochip carrier surface.

41. (Currently Amended) The method of claim 27, wherein said activating photoactivatable cleavable protective groups comprises cleaving a protective group ~~on~~ the

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~~photoactivatable~~-groups on at said selected predetermined areas of said biochip carrier surface.

***Allowable Subject Matter***

Claims 2-11,18,21,27,37-41,44-50,57-58 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER M. GROSS whose telephone number is (571)272-4446. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on 571 272 0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher M Gross  
Examiner  
Art Unit 1639

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